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any outside influence, whether of private talk or public print. What is true with reference to a jury is true also with reference to a court. * * * When a case is finished, courts are subject to the same as other people, but the propriety and necessity of preventing interference with the course of justice by premature statement, argument, or intimidation hardly can be denied.' *Patteron's Case*, 205 U. S. 462, 27 Sup. Ct. 558, 51 L. Ed. 879, 10 Ann. Cas. 689. Here, in brief compass, is the law, its reasons and limitations. At argument, that the court had not admonished the jury not to read accounts of the trial was mentioned. It may be answered the article was more than an account of the trial; that no one, including courts, are bound to anticipate and guard against another's negligence, to say nothing of violation of law; that therein is no defense; and that such publications are contempts even if not read by jury or judge, because of the probability that they will be or may be despite admonition, because of their evil tendencies and possibilities. See *Newspaper Co. v. Com.*, 172 Mass. 294, 52 N. E. 445, 44 L. R. A. 159, 70 Am. St. Rep. 280."

Mortgages and Deeds of Trust—Relation of Mortgagor to Property—Duties Assumed to Mortgagee—*Davis v. Virginia, etc., Co.*, 22 Fed. 663 (C. C. A.).—A mortgagor or his agents, operating the property in due course of business, is not technically a trustee for the mortgagee, and is under no obligation to pay over the income or profits to the mortgagee, even where the mortgage covers income, until demand is made for the income, or for surrender of possession of the property; but the mortgagor holds the stable property under the implied confidence reposed and obligation assumed to preserve it intact as security for the mortgage debt. A mortgagor is liable if he wastes or converts to his own use the mortgaged property, and the property itself may be followed by the mortgagee in the hands of third persons, except purchasers without notice, without the necessity of proving fraud.

In the principal case the court uses the following explanatory language: "On reason and authority the general rule is obvious that the mortgagor, or his agents, operating the property in due course of business, is not technically a trustee for the mortgagee, and is under no obligation to pay over the income or profits to the mortgagee, even when the mortgage covers income, until demand is made for the income or for surrender of the possession of the property. *Galveston R. Co. v. Cowdrey*, 11 Wall. 459, 20 L. Ed. 199; *Gilman v. Ill. Tel. Co.*, 91 U. S. 603, 23 L. Ed. 405; *Dow v. Memphis R. Co.*, 124 U. S. 652, 8 Sup. Ct. 673, 31 L. Ed. 565; *Sage v. Memphis & L. R. Co.*, 125 U. S. 361, 8 Sup. Ct. 887, 31 L. Ed. 694. Therefore, as to the income received in due course of business, the mortgagor corporation sustains no fiduciary relations to the mortgagee. But it seems equally obvious that the mortgagor holds the stable mort-

gaged property under the implied confidence reposed and obligation assumed to preserve it intact as security for the mortgage debt. 39 Cyc. 558. If he wastes it or converts it to his own use, he is liable. 27 Cyc. 1269. And it may be followed in the hands of third persons, except purchasers without notice. *Chicago R. Co. v. Third Nat. Bk.*, 134 U. S. 276, 10 Sup. Ct. 550, 33 L. Ed. 900. To recover property so converted, or its value, it is not necessary, as the master seems to have thought, for the mortgagee to prove fraud. The right of action arises on the violation of confidence reposed and the obligation assumed, even if the violation be due to negligence."

In the principal case it was further held that a street railway company, which through stock purchases secured control of a competing company and causes its property to be conveyed to itself, subject to underlying mortgages which covered also the income and good will of the mortgagor, thereby assumed a fiduciary relation to the mortgaged property, and became liable to the secured bondholders for any improper diversion of the same, including its income and the business and good will of the mortgagor.

On this point the court used the following language: "The obligation of the mortgagor to the mortgagee was to keep up the value of the security by using all reasonable means to conserve the business. Therefore, while the mortgagee had no right to demand payment of income, it did have the right to require the mortgagor to account for the depreciation in the value of the mortgaged property due to improper diversion of the business and income of the corporation appropriated by the mortgagor; and the good will attached to the property was a part of it. *Metropolitan Nat. Bk. v. St. Louis Dispatch Co.*, 149 U. S. 436, 13 Sup. Ct. 944, 37 L. Ed. 799; *Linder v. Hartwell R. Co.* (C. C.) 73 Fed. 320. When the Virginia Company acquired stock control of the Richmond Company, and undertook its management in conjunction with the management of its own affairs under the same executive officers, it became responsible by reason of its control for any diversion of the mortgaged property. As a majority stockholder in control it became a trustee for the minority stockholders. *Jones v. Mo. E. E. Co.*, 144 Fed. 765, 75 C. C. A. 631; *Central Improvement Co. v. Cambria Steel Company*, 210 Fed. 696, 127 C. C. A. 184. By the same principle as the majority stockholder in control, the Virginia Company became a fiduciary holding the mortgaged property to answer to the mortgage debt. *Farmers' L. & T. Co. v. N. Y.*, etc., *R. Co.*, 150 N. Y. 410, 44 N. E. 1043, 34 L. R. A. 76, 55 Am. St. Rep. 680."